



DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**Docket No. 220602-0129**

**RIN 0648-BL20**

**Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2022**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS announces management measures for the 2022 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year. The intent of this action is to set management measures that allow the recreational fisheries to achieve, but not exceed, the recreational harvest limits and thereby prevent overfishing of the summer flounder, scup, and black sea bass stocks.

**DATES:** This rule is effective [*insert date of publication in the FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Emily Keiley, Fishery Policy Analyst, (978) 281-9116.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission cooperatively manage summer flounder, scup, and black sea bass. The Council and the Commission's Management Boards meet jointly each year to recommend recreational management measures. Recreational management measures are required to be set so that recreational harvest achieves, but does not exceed, the

recreational harvest limit (RHL).

In this final rule, NMFS is implementing conservation equivalency to manage the 2022 summer flounder and black sea bass recreational fisheries, as proposed on April 18, 2022 (87 FR 22863). The approval of conservation equivalency means that we are waiving Federal summer flounder and black sea bass recreational measures in Federal waters, and for all federally permitted party/charter vessels, regardless of where they fish. States, through the Commission, are collectively implementing measures designed to constrain landings to the 2022 recreational harvest limits. Vessels fishing in Federal waters and Federal party/charter vessels are subject to the regulations in the state in which they land. These measures are consistent with the recommendations of the Council and the Commission. Additional information on the development of these measures is provided in the proposed rule and not repeated here.

For scup, we are implementing a 1-inch (2.54-cm) increase to the minimum size, consistent with the recommendation of the Council and Board. We are not implementing a closure of the recreational scup fishery in Federal waters as originally proposed. The rationale for this change is provided below.

### **Scup Recreational Management Measures**

We have decided not to close the Federal recreational scup fishery as proposed on April 18, 2022; 87 FR 22863. Instead, we are implementing a 1-inch (2.54-cm) increase to the scup recreational minimum size in Federal waters. In Federal waters, this results in a 10-inch (25.4-cm) total length minimum size. Combined with the 1-inch (2.54-cm) size change being implemented by the states, an approximate 33-percent reduction in harvest is expected.

Our rationale for implementing the size limit increase and not the Federal closure, is based, in part, on the objectives of the Magnuson-Stevens Act. Per the National

Standards, management actions need to prevent overfishing while minimizing social and economic impacts, considering equity, and minimizing discards, among other factors. Additionally, we considered ongoing actions by the Council and Commission to address the factors that are considered for recreational regulations. Many of the comments received on the proposed rule highlighted these issues, and these are summarized in the comment response section.

The proposed closure would have only impacted the Federal recreational fishery (recreational scup fishing beyond 3 miles from land, or federally permitted party/charter scup vessels regardless of area fished). The majority (about 94 percent) of scup harvest comes from state waters. If a closure had been implemented, it was expected that federally permitted for-hire vessels would have dropped their federal permit for the fishing year and pursued scup in state waters. While this may have alleviated some of the anticipated economic impacts, it would have also likely resulted in increased effort in state waters, minimizing the impact of the closure on overall scup harvest. Additionally, scup is difficult to avoid when fishing for other popular recreational targets such as black sea bass, and because it would have been illegal to retain scup in Federal waters, we anticipated that scup discards on those trips would have increased substantially, further limiting the reduction in scup harvest.

Additionally, the commercial fishery is not expected to harvest its entire quota, and, as in previous years, overall harvest is not expected to result in overfishing. With less than a month left in the Winter I commercial scup fishery, only 45 percent of the quota has been harvested, trending lower than landings in 2021. A letter from several State Directors cited the repeated quota underutilization of the commercial fishery: “The commercial fishery has repeatedly underutilized its allocation, leaving an average of 34 percent of the coastwide quota over the last 6 years.” Preliminary commercial landings

from 2021 are 12.93 million lb (5,864 mt) and the 2021 quota was 20.50 million lb (9,298 mt). The 2022 commercial scup quota is 20.38 million lb (9,244 mt) and, as stated above, harvest to date is trending lower than last year. Even if commercial landings in 2022 eventually were to match the 2021 landings, the result would be a 7.4-million lb (3,356-mt) commercial quota underage, which would nearly cover the projected recreational overage of 7.8 million lb (3,538 mt) under status quo recreational regulations. The projected recreational overage of 7.8 million lb (3,538 mt) also does not account for the estimated 33-percent reduction in harvest that is expected to be achieved through the minimum size increase.

### *Recreational Regulations*

Given the potential negative social and economic impacts of the closure and the likelihood that it is not necessary to prevent overfishing, we have determined that the 1-inch (2.54-cm) minimum size increase is sufficient action at this time. However, the Council and Board are considering final action on the Harvest Control Rule Framework Adjustment/Addendum at their joint meeting in June that, if approved, would change the way recreational management measures are set for summer flounder, scup, black sea bass, and bluefish. All of the alternatives being considered by the Council and Board place a greater emphasis on factors such as stock size and trends, fishing mortality, and recruitment, and rely less on Marine Recreational Information Program (MRIP) estimates to determine if, and how, recreational management measures should be changed. We agree that the current process for setting recreational management measures can be improved and we will continue to work with the Council and Board on the Harvest Control Rule Framework/Addendum. However, should the Council and Board fail to take action in June to change the factors to be considered in setting recreational management

measures, we intend to pursue Secretarial action to address the recreational regulatory issues.

The regulations at 50 CFR 648.122(b) require the Regional Administrator to propose recreational management measures that will achieve the recreational annual catch limit (ACL): “If the Regional Administrator determines that additional recreational measures are necessary to ensure that the sector ACL will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement annual measures.”

If the Council and Board do not change the way that recreational measures are set, NMFS, through the authority of the Magnuson-Stevens Act at section 305(d), would pursue changes to the regulations that would authorize the Regional Administrator to assess the likelihood of the combined projected recreational and commercial harvest to exceed the acceptable biological catch (ABC) and, if the combined harvest is not likely to exceed the ABC, to implement a transfer of commercial quota to the recreational sector. This transfer would ensure that the recreational sector ACL (adjusted for the transfer) would not be exceeded.

### **Summer Flounder Recreational Management Measures**

The Commission has certified that the 2022 recreational fishing measures required to be implemented in state waters for summer flounder are, collectively, the conservation equivalent of the season, fish size, and possession limit prescribed in 50 CFR 648.104(b), 648.105, and 648.106(a). According to § 648.107(a)(1), vessels subject to the recreational fishing measures are not subject to Federal measures, and instead are subject to the recreational fishing measures implemented by the state in which they land.

Section 648.107(a) is amended through this final rule to recognize state-implemented measures as the conservation equivalent of the Federal coastwide recreational management measures for 2022.

In addition, this action revises the default summer flounder coastwide measures (a 18.5-inch (47-cm) minimum size, four-fish possession limit, and May 15 through September 15 open fishing season), that become effective January 1, 2023, upon the expiration of the 2022 conservation equivalency program.

### **Black Sea Bass Recreational Management Measures**

The Commission has certified that the 2022 recreational fishing measures required to be implemented in state waters for black sea bass are, collectively, the conservation equivalent of the season, fish size, and possession limit prescribed in 50 CFR 648.145(a), 648.146, and 648.147(b). According to § 648.142(d)(2), vessels subject to the recreational fishing measures are not subject to Federal measures, and instead are subject to the recreational fishing measures implemented by the state in which they land. Section 648.151 is amended through this final rule to recognize state-implemented measures as the conservation equivalent of the Federal coastwide recreational management measures for 2022.

This action also sets the following coastwide black sea bass measures: A 14-inch (35.56-cm) minimum size; a 5-fish possession limit; and an open season of May 15-October 8. These measures become effective January 1, 2023, upon the expiration of the 2022 conservation equivalency program.

### **Changes from the Proposed Rule**

We proposed a closure of the Federal, recreational, scup fishery, but, as explained above, we have decided not to close the fishery. Instead, we are implementing a 1-inch (2.54-cm) increase to the minimum size for scup, as recommended by the Council and Board. Otherwise, this final rule is unchanged from the proposed rule.

## Comments and Responses

We received 319 comments on the proposed rule, 296 of which were opposed to the Federal recreational scup closure, including comments from the: New York Fishing Tackle Trade Association; Regal Marine Products, Inc.; Rhode Island Party and Charter Boat Association; Stellwagen Bank Charter Boat Association; Connecticut Charter and Party Boat Association; Connecticut Fishermen's Alliance; Freeport Hudson Anglers; and a joint letter from the Center for Sportfishing Policy, National Marine Manufacturers Association, Recreational Fishing Alliance, Coastal Conservation Association, American Sportfishing Association, and the Congressional Sportsmen's Foundation. In part due to our consideration of these comments, we have decided not to close the Federal recreational scup fishery and instead implement a 1-inch (2.54-cm) minimum size increase.

One comment was not relevant to the proposed rule and another simply stated, "No." These comments are not discussed further.

*Comment 1:* A significant number of comments cited potential negative social and economic impacts (63 comments and 152 comments, respectively) of a Federal recreational scup closure. These comments claimed a disproportionate and inequitable impact on for-hire (party and charter) vessels, as well as negative impacts on shoreside businesses and individuals who harvest scup for sustenance or recreation. Particularly in the context of the social and economic impacts of the COVID-19 pandemic and the current high costs of food and fuel, the commenters asserted that a closure of the Federal scup fishery at this time would have detrimental impacts to the businesses and individuals that rely on it.

*Response:* We are not closing the Federal scup fishery, in part because of the negative social and economic impacts anticipated by the commenters. As discussed elsewhere in the preamble, our rationale for implementing the size limit increase instead

of the Federal closure is to prevent overfishing while minimizing social and economic impacts, considering equity, and minimizing discards, among other factors. Additionally, we considered ongoing actions by the Council and Commission to address the way that recreational regulations are set.

*Comment 2:* One hundred and seven comments cited the importance of scup as an accessible and affordable food source and the detrimental effect a Federal closure would have on individuals and families that rely on scup for sustenance.

*Response:* We are not closing the Federal scup fishery, in part because of the negative impacts anticipated by the commenters. See the earlier part of this preamble for a full discussion of the rationale.

*Comment 3:* Twenty-two comments specifically referenced Environmental Justice issues with the closure, specifically asserting it would have a disproportionate impact on certain ethnic groups or lower income individuals and families.

*Response:* We are not closing the Federal scup fishery, in part because of the negative impacts anticipated by commenters. See the earlier part of this preamble for a full discussion of the rationale.

*Comment 4:* Seventy commenters questioned the need for a closure of the Federal recreational scup fishery when the stock is so healthy, with a biomass of nearly two times the target level.

*Response:* We are not closing the Federal scup fishery, in part because of the high biomass level and low risk of overfishing even if the recreational fishery exceeds the RHL in 2022. See the earlier part of this preamble for a full discussion of the rationale.

*Comment 5:* We received five comments in support of the scup closure; these comments cited the need to prevent overfishing or were not supportive of fishing in general.

*Response:* We have determined that it is not necessary to close the Federal



recreational scup fishery to prevent overfishing. Additionally, shifted effort into state waters and potential increases in scup discards on Federal waters trips may have limited, or negated, the actual harvest reduction achieved by the closure. The reduction in harvest achieved by the increased size limit is expected to achieve the needed conservation objective to prevent overfishing and ensure catch does not exceed the ABC. It should be also be noted that scup is not overfished, and is not experiencing overfishing.

*Comment 6:* We received 24 comments that opposed the proposed 2022 black sea bass measures because they are more restrictive than measures currently in place. Many of these comments also cited dissatisfaction with the specific state regulations that are being implemented to meet the conservationally equivalent reduction in recreational harvest of 20.7 percent. These comments also asserted that black sea bass is an abundant stock, with a biomass over two times the biomass target, and questioned why reductions are needed when the stock is healthy and overfishing is not occurring.

*Response:* The current regulations for black sea bass require NMFS to implement recreational management measures that are projected to ensure that the sector-specific ACL for an upcoming fishing year or years will not be exceeded. The regulations do not provide flexibility to consider factors such as biomass or fishing mortality in the measure-setting process. Black sea bass is at high levels of biomass, but projected recreational catch and harvest significantly exceeds the previously adopted ACL and RHL. Even though biomass is high, and overfishing is not occurring, because no regulatory flexibility currently exists to incorporate these factors, we are required to implement reductions. NMFS will continue to work with the Council and Commission on the Recreational Reform Initiative to address fundamental problems with recreational fisheries management such as this lack of regulatory flexibility, in as timely a fashion as possible.

Additionally, this rule does not implement state-specific measures, but rather

waives the Federal recreational measures. States and regions set their own management measures, which are approved through the Commission process.

*Comment 7:* We received a significant number of comments that suggested alternative approaches to constrain scup harvest: 128 comments suggested increasing the size limit, with a suggested range from 10 to 14 inches (25.4 to 35.6 cm); 54 comments suggested a reduced bag limit ranging from 3 to 30 fish, or specifying a percent reduction from 10 to 20 percent; 65 comments suggested a seasonal closure, most specified closing January through April, while others more generally stated, “during the winter” or any season less than a year-round closure; and 4 comments suggested that the closure could be applied to the private sector only.

*Response:* We appreciate the public comments and suggestions on alternative approaches to reduce scup harvest. As stated above, we have decided not to close the Federal recreational scup fishery. We are implementing a 1-inch (2.54-cm) increase to the Federal minimum size, as suggested by many commenters and recommended by the Council and Board.

*Comment 8:* Twenty commenters cited the uncertainty in the MRIP data as rationale for eliminating or lowering the black sea bass and scup harvest reductions.

*Response:* NMFS agrees that there is uncertainty in the MRIP estimates. Due to concerns about uncertain data points, the Commission’s Summer Flounder, Scup, and Black Sea Bass Technical Committee performed additional analyses to examine and ultimately remove and replace data outliers. The Technical Committee (TC) developed a modified Thompson Tau analysis for identifying and smoothing outlier harvest estimates. Based on the results of this analysis, the TC concluded that a revised coastwide harvest reduction target between 20.7 and 26.8 percent would be viable for management. The Council and Board ultimately adopted the 20.7-percent reduction at a joint meeting in February, 2022. This reduction is less than the 28-percent reduction that was originally

proposed by the Council and Board. Given that the Technical Committee's analysis and reduction ultimately adopted by the Board and Council removes data outliers, additional changes to the needed reduction based on outliers may be redundant and inappropriate for management.

For scup, we are not implementing a Federal closure. The minimum size increase being adopted is projected to reduce harvest by 33 percent, less than the 56-percent harvest reduction specified in the Council's analysis.

*Comment 9:* Five commenters stated that the scup closure would lead to increased discards and, thus, no meaningful reduction in mortality.

*Response:* NMFS agrees that there may be some catch that would have been converted to discards if we had closed the Federal scup fishery. An expected increase in discards, which would offset the harvest reduction of the closure, was one of the reasons we decided not to close the Federal scup fishery.

It should also be noted that, given all of the factors (weather, regulations for other species, fuel cost, etc.) that can impact recreational fishing behavior, we cannot reliably predict how much catch will change in response to the management changes. Compared to landed fish, fish that are caught and released have a higher rate of survival. The released fish that survive continue to contribute to the population. For black sea bass and scup, it is estimated that 85 percent of released fish that are caught recreationally survive.

*Comment 10:* Twenty-six comments suggested that commercial fishing operations were to blame for the needed reductions and/or that additional restrictions on commercial fishing operations should be imposed instead of the recreational scup closure. Several comments also stated that recreational fishing had a minor impact, in terms of overall harvest, compared to the commercial fishery.

*Response:* Recreational scup harvest is a significant proportion of overall scup harvest and mortality. In 2020, 13.50 million lb (6,123 mt) of scup were landed by the

commercial fishery, and 12.91 million lb (5,855 mt) were landed by the recreational fishery. In 2019, recreational landings exceeded commercial landings. The commercial fishery has, as mentioned previously in this rule, repeatedly underutilized its allocation. This action does not consider changes to commercial fishery regulations. Commercial fishery regulations were previously approved through the 2022-2023 specification (86 FR 72859, Dec. 23, 2021). This action is intended to address the 2022 recreational management measures.

*Comment 11:* Four people commented on specific state regulations for summer flounder, including the suggestion of implementing a slot limit.

*Response:* This action does not implement state-specific measures for summer flounder. States and/or regions develop their recreational summer flounder management measures through the Commission process. This action only considers the need to implement coastwide measures or the ability to waive Federal measures through the conservation equivalency process. In this action, we have approved conservation equivalency and thus are waiving Federal summer flounder recreational management measures.

*Comment 12:* Three comments supported the summer flounder regulations, including the RI Charter Boat Association.

*Response:* We agree, and have implemented conservation equivalency for summer flounder as proposed.

*Comment 13:* One comment did not support the liberalization of the recreational summer flounder regulations, citing concerns about the stock health.

*Response:* The Council, Board, and technical bodies considered the stock status of summer flounder when developing the recommended summer flounder liberalization. In accordance with the regulations, a liberalization of up to 33 percent could have been applied but, given that the stock is still below the target and general concerns regarding

stock health, a lower liberalization of 16.5 percent was selected. It should also be noted that states and/or regions do not have to liberalize measures by 16.5 percent. A 16.5-percent increase in recreational harvest is a ceiling, or maximum liberalization, allowed under conservation equivalency.

*Comment 14:* One comment discussed the timing of the proposed rule and that it is difficult to run a business when regulations are unknown even after the recreational fishing season has started.

*Response:* We acknowledge the concerns about the timing of this, and previous, recreational rulemaking and the difficulty the timing creates for businesses and individuals to plan for the season. Unfortunately, getting recreational management measures in place was not possible any earlier this year because of the timing of the Council and Board meetings, the time required for states and regions to develop management measures, and the time required for the regulatory process. We are working with the Council and Board on the Harvest Control Rule Framework/Addendum that considers options to set measures every other year and that may allow for measures to be set earlier, so they are available before the start of the fishing year (January 1).

### **Classification**

The Administrator, Greater Atlantic Region, NMFS, determined that these management measures are necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries and are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule, to ensure that the final management measures are in place as soon as possible.

The Federal coastwide regulatory measures for recreational summer flounder and black sea bass fishing that were effective last year remain in place until the decision to waive Federal measures for 2022 is made effective by this final rule. Many states have already implemented their conservationally equivalent 2022 measures; a delay in implementing the measures of this rule will be contrary to the public interest because it would increase confusion on what measures are in place in Federal waters. Inconsistencies between the states' measures and the Federal measures could lead to misunderstanding of the applicable regulations and could increase the likelihood of noncompliant landings. Additionally, the Federal measures currently in place are more restrictive than many of the measures in state waters, which unnecessarily disadvantages federally permitted vessels who are subject to these more restrictive measures until this final rule is effective.

The measures currently in place for scup and black sea bass are more liberal than the measures this action will implement. Further delay of the implementation of the 2022 measures will increase the likelihood that the 2022 RHLs and recreational ACLs will be exceeded. We are required to implement measures to constrain recreational harvest to prevent overfishing.

In response to this action, unlike actions that require an adjustment period to comply with new rules, recreational and charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the published state management measures for size, bag limit, and season of summer flounder, scup, and black sea bass while the recreational and charter/party operators are engaged in fishing activities.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed

rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. While we received no comments specifically regarding this certification, we did receive a number of comments citing economic impacts from the proposed closure of the scup fishery in Federal waters. However, in this final rule, we are not taking an action to close the scup fishery, which mitigates those potential economic impacts. Therefore, as a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

#### **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 6, 2022

---

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

#### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.104, revise paragraph (b) to read as follows:

#### **§ 648.104 Summer flounder size requirements.**

\* \* \* \* \*

(b) *Party/charter permitted vessels and recreational fishery participants.* The minimum size for summer flounder is 18.5-inches (47 cm) total length for all vessels that do not qualify for a summer flounder moratorium permit under § 648.4(a)(3), and charter boats holding a summer flounder moratorium permit if fishing with more than three crew members, or party boats holding a summer flounder moratorium permit if fishing with passengers for hire or carrying more than five crew members, unless otherwise specified in the conservation equivalency regulations at § 648.107. If conservation equivalency is not in effect in any given year, possession of smaller (or larger, if applicable) summer flounder harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

\* \* \* \* \*

3. In § 648.107, revise paragraph (a) introductory text to read as follows:

**§ 648.107 Conservation equivalent measures for the summer flounder fishery.**

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2022 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

\* \* \* \* \*

4. In § 648.126, revise paragraph (b) to read as follows:

**§ 648.126 Scup minimum fish sizes.**

\* \* \* \* \*

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum size for scup is 10 inches (25.4 cm) total length for all vessels that do not have



a scup moratorium permit, or for party and charter vessels that are issued a scup moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

However, possession of smaller scup harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.131 and abide by state regulations.

\* \* \* \* \*

5. In § 648.145, revise paragraph (a) to read as follows:

**§ 648.145 Black sea bass possession limit.**

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 5 black sea bass in, or harvested from, the EEZ per trip unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit, unless otherwise specified in the conservation equivalent measures described in § 648.151. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 5 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142. However, possession of black sea bass harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.150 and abide by state regulations.

\* \* \* \* \*

6. Revise § 648.146 as follows:

**§ 648.146 Black sea bass recreational fishing season.**

Vessels that are not eligible for a black sea bass moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 15 through October 8, unless otherwise specified in the conservation equivalent measures described in § 648.151 or unless this time period is adjusted pursuant to the procedures in § 648.142. However, possession of black sea bass harvested from state waters outside of this season is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

7. In § 648.147, revise paragraph (b) to read as follows:

**§ 648.147 Black sea bass size requirements.**

\* \* \* \* \*

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum fish size for black sea bass is 14 inches (35.56 cm) total length for all vessels that do not qualify for a black sea bass moratorium permit, and for party boats holding a black sea bass moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a black sea bass moratorium permit, if fishing with more than three crew members, unless otherwise specified in the conservation equivalent measures as described in § 648.151. However, possession of smaller black sea bass harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

\* \* \* \* \*

8. Add § 648.151 to subpart I to read as follows:

**§ 648.151 Black sea bass conservation equivalency.**

(a) The Regional Administrator has determined that the recreational fishing

measures proposed to be implemented by the states of Maine through North Carolina for 2022 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.146, 648.147(b), and 648.145(a). This determination is based on a recommendation from the Black Sea Bass Board of the Atlantic States Marine Fisheries Commission.

(1) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting black sea bass in or from the EEZ and subject to the recreational fishing measures of this part, landing black sea bass in a state whose fishery management measures are determined by the Regional Administrator to be conservation equivalent shall not be subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b). Those vessels shall be subject to the recreational fishing measures implemented by the state in which they land.

(2) [Reserved]

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, size limits and possession limit prescribed in §§ 648.146, 648.147(b), and 648.145(a), respectively, due to the lack of, or the reversal of, a conservation-equivalent recommendation from the Black Sea Bass Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season – June 24 through December 31; minimum size - 16 inches (40.64 cm); and possession limit - 3 fish.